

**THE CORPORATION OF THE
TOWNSHIP OF ZORRA**



BY-LAW NO. 49-03

**BEING A BY-LAW TO REGULATE AND PROHIBIT THE
SMOKING OR VAPORIZING OF RECREATIONAL SMOKING
PRODUCTS IN THE TOWNSHIP OF ZORRA AND REPEAL BY-
LAWS 42-15 AND 26-30.**

WHEREAS section 115 of the Municipal Act, 2001, S.O. 2001, c.25, as amended (the "Municipal Act"), provides that a municipality may prohibit or regulate the smoking of tobacco in public places and workplaces within the municipality;

AND WHEREAS section 10 of the Municipal Act provides that a municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protections of persons and property;

AND WHEREAS section 128(1) of said Act provides that a municipality may prohibit and regulate with respect to matter that in the opinion of Council are or could be public nuisances;

AND WHEREAS it has been determined that second-hand smoke and vapour are a health hazard or discomfort for many inhabitants and visitors to the Township of Zorra;

AND WHEREAS the establishment of a community standard of smoke-free public places assists in de-normalizing tobacco, electronic cigarette and cannabis use and promotes a smoke-free and vapour-free culture;

AND WHEREAS Section 18 of the Smoke-Free Ontario Act, 2017, S.O. 2017, c.26, as amended ("Smoke Free Ontario Act"), provides that if there is a conflict between a provision of that Act and a provision of another Act, a regulation or a municipal By-law that deals with a matter to which the Act applies, the provision that is more restrictive of the matter to which the Act applies prevails;

AND WHEREAS section 425 of the Municipal Act provides that a municipality may pass By-laws providing that a person who contravenes a By-law of the municipality passed under that Act is guilty of an offence;

AND WHEREAS section 429 of the Municipal Act provides that a municipality may establish a system of fines for offences under a By-law of the municipality passed under that Act;

AND WHEREAS the Council of The Corporation of the Township of Zorra deems it necessary to repeal By-law No. 42-15, as amended and By-law No. 26-03;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ZORRA ENACTS AS FOLLOWS:

1.0 Definitions

- (a) "**Authorized Person**" means any individual employed by or authorized by the Township of Zorra as a Municipal By-law Enforcement Officer to enforce this by-law, or any officer of the Ontario Provincial Police.
- (b) "**By-law Enforcement Officer(s)**" means a person or persons duly empowered by the Council of the Corporation of the Township of Zorra to enforce the various by-laws of the municipality and to carry into effect the provisions of any Act of the Legislature of the Province of Ontario to be enforced by the municipality.
- (c) "**Cannabis**" has the same meaning as in subsection 2 (1) of the *Cannabis Act* (Canada);
- (d) "**Council**" means the Township Council of the Corporation of the Township of Zorra;
- (e) "**Electronic Cigarette**" or "**E-Cigarette**" means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a nicotine-based liquid substance or e-substance to produce a vapour intended to be inhaled by the user of the device directly through the mouth.
- (f) "**Employee**" means a person who performs any work for or supplies any services to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer.
- (g) "**Employer**" includes an owner, operator, proprietor, manager, superintendent, overseer, receiver or trustee of an activity, business, work, trade, occupation, profession, project or undertaking who has control or direction of, or is directly or indirectly responsible for, the employment of a person in it.
- (h) "**Enclosed Public Place**" means the inside of any place, building or structure or vehicle or conveyance or part of any of them,
 - a. That is covered by a roof; and
 - b. To which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry.
- (i) "**Enclosed Workplace**" means the inside of any place, building or structure or vehicle or conveyance or part of any of them,
 - a. That is covered by a roof;
 - b. That employees work in or frequent during the course of their employment whether or not they are acting in the course of their employment at the time; and
 - c. That is not primarily a private dwelling.
- (j) "**E-substance**" means a substance that is manufactured or sold to be used in an electronic cigarette.
- (k) "**Highway**" or "**highways**" means all allowances for roads made by the Crown Surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has been expended for opening them or on which status labour has been usually performed, all roads dedicated by the owner of the land to public uses, and all alterations and deviations of and all bridges over any such allowance for road, highway or road, are common and public highways in the Township of Zorra.
- (l) "**Municipal Sidewalk**" means a walkway intended for pedestrians located between that portion of a highway intended for the general passage of vehicles

and the lateral property line, but does not include a sidewalk located within the boundary of a Township owned property.

- (m) **“Officer”** means a Municipal Law Enforcement Officer appointed by Township of Zorra municipal Council, a Police Officer and any Public Health Inspector employed by the County of Oxford who is also duly appointed by the Minister of Health for the enforcement of the Smoke Free Ontario Act and regulations thereto.
- (n) **“Outdoor Community Meeting Area”** means the whole or part of any outdoor area owned, leased or controlled by the Township which the public has access by right or invitation, expressed or implied, whether by payment of money or not.
- (o) **“Outdoors”** means any open space which is outside of a facility, building, structure, premise including any temporary building, structure or part thereof, whether covered by a roof or not.
- (p) **“Park”** means any land, owned or leased or controlled by the Township, designed or used for public recreation, including but not limited to: trails, gardens, playgrounds, sports fields, playing fields and swimming pools.
- (q) **“Person”** includes an individual or corporation and shall include the plural where the context requires. Wherever the word “he” or “him” is used, it shall mean and include the feminine or neuter gender wherever the context so requires.
- (r) **“Playground Equipment”** means any kind of structure or apparatus which is customarily found in a park like setting and which a person may engage in play-like activities such as climbing, swinging, hanging, crawling, jumping, stepping, whether over, across, under, through or upon for enjoyment, exercise and/or as part of relating to others of any age. Without restricting the generality thereof, playground equipment includes swings, slides, climbing apparatus, facilities expressly designed for skate boarding.
- (s) **“Proprietor or Other Person in Charge”** means the person (individual or corporation) who owns, occupies or operates a designated public place or an enclosed workplace to which this By-law applies, or the person who controls, governs, or directs the activities that are carried on in the place, and includes the person who is actually in charge at any particular time.
- (t) **“Public Place”** means the whole or any part of any building, place or area to which members of the general public are invited or permitted access to regardless of whether it is owned by a public or private entity, but does not include any area located on a Highway.
- (u) **“Smoke or Smoking”** includes the carrying, holding or inhaling of lighted cannabis, a lighted cigar, cigarette, water-pipe, or any other lighted smoking equipment.
- (v) **“Smoking Product”** means tobacco, cannabis, and similar products that shall include but is not limited to non-tobacco herbal shisha and other plant material or oils, whose primary purpose is to be burned or heated to produce vapours, gases or smoke intended for inhalation.
- (w) **“Spectator Seating Area”** means any area designated for the viewing of a sport.
- (x) **“Sports Field”** means any field and/or land of natural and/or man-made composition that is used for athletic purposes to conduct organized or unorganized sporting activities, which includes but is not limited to a baseball field, soccer pitch, volleyball court, player or spectator bench, ice rink, and lawn bowling field.
- (y) **“Township”** means the Corporation of the Township of Zorra.

- (z) **“Township facility”** means any building, structure or premise to which the Township holds right of ownership to, including a building, structure or premise which is leased by the Township.
- (aa) **“Township property”** means property which belongs exclusively to the Township of Zorra and to which legal rights apply.
- (bb) **“Vaporizer”** means an inhalant-type device that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine, cannabis or any other substance.
- (cc) **“Vaporizing,” “Vape,” and “Vaping”** means the act of carrying, holding or inhaling of cannabis, tobacco, an e-substance or other similar substance with a vaporizer or electronic cigarette for the purpose of inhalation and may produce vapour, emissions or aerosol.
- (dd) **“Waterpipe”** means a device in which the vapours, gases or smoke of a smoking product passes through liquid prior to being inhaled, and shall include but is not limited to a bong or hookah.

2.0 Applicability

- 2.1. This By-law applies to the smoking and vaporizing of tobacco, cannabis, e-substance, shisha, whether or not it contains tobacco, and other plant material or oils intended for inhalation in every designated public place and in every enclosed workplace within the geographic limits of the Township of Zorra.
- 2.2. This By-law does not apply to privately owned property containing one or more dwellings.
- 2.3. This By-law does not apply to a person who is entitled to possess cannabis pursuant to a medical document issued pursuant to the *Access to Cannabis for Medical Purposes Regulations, SOR/2016-230* or successor legislation or regulations.

3.0 Administration

- 3.1. The Township of Zorra and Southwestern Public Health are responsible for the administration and enforcement of this By-law.

4.0 General Prohibitions

- 4.1. No person shall contravene any prohibitions set out in the Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, Sched. 3, as amended from time to time, including:
 - (a) No person shall smoke or vape, regardless of whether or not a “No Smoking” and/or “No Vaping” sign is posted in the following places:
 - (1) An enclosed public place;
 - (2) An enclosed workplace;
 - (3) All schools, including private schools, within the meaning of the *Education Act*;
 - (4) A child care centre, a place where home child care is provided and/or a place where an early years program or service is provided within the meaning of the *Child Care and Early Years Act, 2014*;
 - (5) The reserved seating area of a sports arena or entertainment venue;

- (6) Outdoors on Township property, including but not limited to parks, playgrounds, natural areas, outdoor community meeting areas and walkways;
 - (7) Outdoors on any community recreational facility; and
 - (8) A Township facility.
- (b) Notwithstanding the provisions of section 4.1.(a), no person shall smoke or vape, regardless of whether or not a “No Smoking” and/ or “No Vaping” sign is posted, on any public areas that fall within the following conditions:
- (1) Within twenty (20) metres of any point on the perimeter of a children’s playground;
 - (2) Within twenty (20) metres of any point on the perimeter of a school, including private schools, as defined in the Education Act,
 - (3) Within twenty (20) metres of any point on the perimeter of outdoor grounds of a community recreational facility;
 - (4) Within twenty (20) metres of any point on the perimeter of a sporting arena or spectator area; and
 - (5) Within a nine (9) metre radius surrounding any point on the perimeter of restaurant and bar patios.

5.0 Exemptions

- 5.1. Notwithstanding section 4.0., such prohibition of smoking and vaping shall not apply to the following:
- (a) A municipal sidewalk; and
 - (b) Special events within the Township, at a Township facility, which have received special permission from the Southwestern Public Health.

6.0 Employer Obligations

- 6.1. Every employer shall, with respect to an enclosed workplace,
- (a) Ensure compliance with this section;
 - (b) Give notice to each employee in an enclosed workplace that smoking and vaping is prohibited in the enclosed workplace;
 - (c) Ensure that no ashtrays, waterpipes, or similar equipment remain in the enclosed workplace, other than a vehicle in which the manufacturer has installed an ashtray; and
 - (d) Ensure that a person who refuses to comply with section 4.0. does not remain in the enclosed workplace.

7.0 Proprietor or Other Person In Charge Obligations

- 7.1. Every proprietor or other person in charge of an enclosed public place shall, with respect to an enclosed public place,
- (a) Ensure compliance with this section;
 - (b) Give notice to each person in the enclosed public place that smoking and vaping is prohibited in the enclosed public place;
 - (c) Ensure that no ashtrays, waterpipes, or similar equipment remain in the enclosed workplace, other than a vehicle in which the manufacturer has installed an ashtray; and
 - (d) Ensure that a person who refuses to comply with section 4.0. does not remain in the enclosed public place.

- 7.2. Every proprietor or other person in charge of a designated public place or an enclosed workplace in which smoking or vaporizing are prohibited shall ensure compliance with this By-law.

8.0 Signs

- 8.1. Signs shall be posted and maintained in accordance with the *Smoke-Free Ontario Act*, S.O. 2017 c.26, Schedule 3, and as prescribed by the Township of Zorra's Chief Building Official, or designate.
- 8.2. Every proprietor or other person in charge of an enclosed workplace or any enclosed public place must ensure that signs, as prescribed by sections 6.0 and 7.0 of this By-Law, are posted and maintained in a sufficient number of conspicuous places so as to identify clearly that smoking and vaporizing are prohibited as per the provisions held within this By-law.
- 8.3. The signs, as prescribed by sections 6.0 and 7.0 of this By-law shall have a sign area that is at least 10 centimetres (4 inches) by 10 centimetres (4 inches) and includes the depiction of the international "No Smoking" symbol, which may or may not read "No Smoking".
- 8.4. A reference to a By-Law of a former municipality, or to a predecessor to this By-Law on any sign that identifies a designated public place or an enclosed workplace in which smoking or vaporizing are prohibited is deemed to be a reference to this by-law.

9.0 Enforcement

- 9.1. The provisions of this By-law respecting the prohibition of smoking and vaporizing in designated public places and in enclosed workplaces, the posting of signs, and the duties imposed on proprietors or other persons in charge of designated public places and of enclosed workplaces will be enforced by the By-law Enforcement Officer or authorized person deemed to be an agent of the Corporation of the Township of Zorra.
- 9.2. The Officer may, at any time, enter any designated public place or any enclosed workplace in which smoking and vaporizing are prohibited to determine whether this by-law is being complied with and, for this purpose, may make such examinations, investigations and inquiries as are necessary.
- 9.3. Where an Officer has reasonable grounds to believe that an offence under this By-law has been committed by a person, the Officer may require the name, address and proof of identity of that person.
- 9.4. Failure to provide proof of identification satisfactory to an Officer when requested to do so pursuant to section 9.4 of this By-law shall constitute obstruction of an Officer under section 9.3 of this By-law.
- 9.5. Any person who observes another person acting in contrary to this By-law may submit a Smoke Free Ontario Act Witness Statement (see Schedule 'A' in this By-law) to the Township Office.

10.0 Offences

- 10.1. Any person who contravenes or fails to comply with any provisions of this By-law shall be guilty of an offence and upon conviction is liable to a fine as prescribed in the *Provincial Offences Act*, R.S.O. 1990, as amended.
- 10.2. No person shall obstruct or hinder or attempt to obstruct or hinder an Officer or other authorized employee or agent of the Township in the exercise of a power of the performance of a duty under this By-law.

11.0 Administrative Penalties

- 11.1. The Officer shall have the authority to use his or her discretion to issue an administrative penalty to a person who has contravened this by-law in lieu of proceeding by way of laying a charge under the Provincial Offences Act R.S.O. 1990, c. P.33, as amended. If an administrative penalty is issued to a person for the breach, no charge shall be laid against the same person for the same breach.
- 11.2. Notwithstanding any other provisions of this part in respect to penalties for violation of the provisions of this By-law, any person may, upon presentation of an infraction notice issued by an Officer alleging commission of any of the offences under this By-law set out in Schedule "B", pay out of Court within the time limit specified on the said infraction notice the penalty set out opposite such offence as indicated in Schedule "B" to this By-law. Upon such payment no further proceedings shall be taken under this By-law in respect to the said alleged offence.
- 11.3. If a voluntary payment is not made in accordance with the procedure provided in Section 11.2, the procedures of the *Provincial Offences Act*, or any successor thereof, shall apply.

12.0 Conflicts

- 12.1. If there is a conflict between a provision of any Act, regulation or By-law and a provision of this By-law, the provision that is the most restrictive of the smoking or vaporizing of tobacco, cannabis and electronic cigarettes prevails.

13.0 Severability

- 13.1. If any section of this by-law or part thereof is found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or part thereof shall be deemed to be severable and all other sections or parts of the by-law shall be deemed to be separate and independent thereof and to be enacted as such.

14.0 Repeal

- 14.1. By-law 42-15 as amended, and By-law 26-03, of the Corporation of the Township of Zorra are now repealed in their entirety.

15.0 Enactment

- 15.1. This by-law shall come into effect on the day it is passed.

READ A FIRST AND SECOND TIME THIS 17th day of JULY, 2019.

READ A THIRD TIME AND FINALLY PASSED THIS 17th day of JULY, 2019.

**MAYOR
MARCUS RYAN**

**CLERK
KAREN MARTIN**

Schedule "A"
By-law No. 38-19:
SMOKING AND VAPORIZING



**THE CORPORATION OF THE
TOWNSHIP OF ZORRA
274620 27TH LINE, P.O. BOX 306
INGERSOLL, ONTARIO N5C 3K5**

Please fax to: 519-485-2520 or email to: zorra@zorra.on.ca
Attention: Smoke Free Enforcement

**SMOKE FREE ONTARIO ACT
WITNESS STATEMENT**

Date and Time of Occurrence _____

Name of Person you observed smoking and/or vaping in a designated no smoking area:

Do you know the person personally? Yes No

If yes, how? _____

If no, how did you identify the person? _____

When you witnessed the offence, where were you standing? _____

How far away from the person were you? _____

Could you tell the colour of the cigarette filter? Yes No

What colour was the filter? _____

Could you see the smoke from the cigarette? Yes No

If winter, what was the approximate air temperature? _____

Are you certain that what you saw was smoke and not expelled breath? Yes No

Could you smell the smoke? Yes No

Did it smell like tobacco smoke? Yes No

Would you recognize the smell of smoke for another product? Yes No

How? _____

Please give any other pertinent information: _____

Date

Signature

Corporation of the Township of Zorra
Part I Provincial Offences Act
By-law No. 38-19: Smoking and Vaporizing
Schedule "B"

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1.	Smoking or vaping in an enclosed public place.	Section 4.1.a.(1)	\$200.00
2.	Smoking or vaping in an enclosed workplace.	Section 4.1.a.(2)	\$200.00
3.	Smoking or vaping in a school.	Section 4.1.a.(3)	\$200.00
4.	Smoking or vaping in a child centre, a place where home child care is provided or a place where an early years program is provided.	Section 4.1.a.(4)	\$200.00
5.	Smoking or vaping in the reserved seating area of a sports arena or entertainment venue.	Section 4.1.a.(5)	\$200.00
6.	Smoking or vaping outdoors on Township property.	Section 4.1.a.(6)	\$200.00
7.	Smoking or vaping outdoors on any community recreational facility.	Section 4.1.a.(7)	\$200.00
8.	Smoking or vaping in a Township facility.	Section 4.1.a.(8)	\$200.00
9.	Smoking or vaping within 20 metres of a children's playground.	Section 4.1.b.(1)	\$200.00
10.	Smoking or vaping within 20 metres of a school.	Section 4.1.b.(2)	\$200.00
11.	Smoking or vaping within 20 metres of outdoor grounds of a community recreational facility.	Section 4.1.b.(3)	\$200.00
12.	Smoking or vaping within 20 metres of a sporting arena or spectator area,	Section 4.1.b.(4)	\$200.00
13.	Smoking or vaping within 9 metres of a restaurant and bar patio.	Section 4.1.b.(5)	\$200.00
14.	Obstructing or attempting to obstruct an Officer.	Section 10.2.	\$200.00

Note: The general penalty provision for the offences listed above is Section 10.1 of By-law 38-19, a certified copy of which has been filed.